

### **REMARKS**

The issues outstanding in the Office Action mailed January 20, 2004, are the objections to the specification, the Requirement for Restriction, the objections to the claims and the rejections under 35 U.S.C §§112, 102 and 103. Reconsideration of each of these issues, in view of the following discussion, is respectfully requested.

#### **Objection to Specification**

The Examiner is thanked for noting typographical errors in the specification, which have been corrected. Moreover, the title has been changed per the Examiner's request. Withdrawal of these objections is therefore respectfully requested.

#### **Requirement for Restriction**

Applicants hereby confirm the election of Group I, claims 1-8 and 10-13. The Requirement for Restriction is respectfully traversed.

The basis for the Requirement for Restriction is that the adhesion resin composition of Group I is "unrelated" to the electrode of Group II. In fact, these claims are *not* directed to inventions which are "not disclosed as capable of use together" as alleged in the Office Action. In particular, the electrode claims of Group II *require* the adhesive resin composition of Group I. See, for example, claim 9 which recites an electrode comprising an electrode active material and a binder, "wherein said binder is the adhesive resin composition set forth in claim 1." Since the electrode *requires* the adhesive of Group I, it can be seen that the claims are, in fact, related as combination to subcombination. In such a situation, M.P.E.P. §803 requires *two-way* distinctness to be shown in order to support a requirement for restriction. Such distinctness has not been shown in the present situation and, moreover, cannot be shown inasmuch as the claims of Group II, as noted above, require all the elements of Group I.

In addition, to the extent that the claims were, arguably, related in some other manner, for example, as intermediate/final product, it is evident that the at least dual status of the Groups, in view of their subcombination combination relationship, mandates that two-way distinctness be

shown to support a restriction. The M.P.E.P. states that, where "plural inventions are capable of being viewed as related in two-ways, *both* applicable criteria for distinctness must be demonstrated to support a Restriction Requirement." (Emphasis added.) See M.P.E.P. §803.01. Withdrawal of the Restriction Requirement is therefore appropriate and is respectfully requested.

#### Objection to Claims

The Examiner's careful reading of the claims is appreciated. Grammatical changes have been made to the claims which do not change the scope thereof. Withdrawal of the objection is therefore respectfully requested.

#### Rejection Under 35 U.S.C §112

Claims 5-8 have been rejected under 35 U.S.C §112, second paragraph. Reconsideration of this rejection, in view of the minor grammatical amendments which also do not change the scope of the claims, is respectfully requested.

#### Rejection Under 35 U.S.C §102

Claims 1-8 and 10-13 have been rejected under 35 U.S.C §102(b) over Cluff '314. Reconsideration of this rejection is respectfully requested. It is noted that Cluff does *not* specifically disclose homopolymers of vinylidene fluoride, e.g., in any manner, much less as present component (A). Cluff discloses fluoro elastomers generically, indicating that his copolymers "may also be used as plasticizers for *the higher molecular weight fluoro elastomers*." See column 4, lines 21-25. In examples 1-5, Patentees disclose a copolymer of a vinylidene fluoride and hexafluoropropylene as the "copolymer of the invention" (not to be confused with the fluoro elastomer). Example 6 discloses terpolymers of vinylidene fluoride, hexafluoropropene and tetrafluoroethylene, while Examples 7 and 8 again disclose copolymers of vinylidene fluoride and hexafluoropropylene, thus to the extent that Patentees teach, as alleged in the Office Action, that the fluoro elastomers and copolymers of the invention should be similar, they teach the use of *copolymers* as the fluoro elastomer, congruent with their disclosure of copolymers as the invention. Patentees thus do not disclose homopolymers of vinylidene

fluoride.

It is noted that item 10 at page 8 of the Office Action indicates that Cluff "discloses that fluoroelastomer is preferred to be a polymer with similar chain to the copolymer plasticizer." However, this does *not* lead to the conclusion that "homopolymer of vinylidene fluoride...[is] included since copolymer plasticizer is a copolymer of vinylidene fluoride-hexafluoropropylene." Indeed, it is clear that Patentees disclosure would motivate one of ordinary skill in the art to select copolymers and/or terpolymers, but not homopolymers. Thus, the disclosure simply does not anticipate claim 1 and dependents. Moreover, the patent also fails to anticipate claims such as 5, 11 or 18, wherein (B) is a homopolymer of vinylidene fluoride. Withdrawal of the rejection is therefore respectfully requested.

Finally, the patent fails to disclose that their copolymers are a latex, equivalent to resin (B) of claims 21-23 (see the present specification at page 11, lines 17-19). Thus, those claims are also not anticipated.

#### Rejections Under 35 U.S.C §103

Claims 1-8 and 10-13 have been rejected under 35 U.S.C §103 over Phillips '595 taken with Cluff. Reconsideration of this rejection is respectfully requested.

Phillips contains disclosure essentially similar to that of Cluff. For example, Phillips discloses "fluorohydrocarbon elastomers" generically, and indicates the typical elastomers include those "based on hexafluoropropylene and vinylidene fluoride *copolymers or terpolymers*." See column 2, lines 25-30 of the patent. Thus, Patentees fall far short of suggesting vinylidene homopolymers.

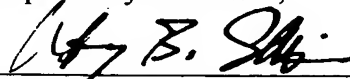
As a result, it is clear that neither patent, whether singularly or taken together, teaches one of ordinary skill in the art to use a vinylidene fluoride homopolymer.

Similarly, neither patent suggests the use of latex as resin (B), and thus the references also fail to suggest claims 21-23. Reconsideration of the rejection is therefore respectfully requested.

The claims of the application are submitted to be in condition for allowance. However, should the Examiner have any questions or comments, he is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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